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TRIAL

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

19 CR 521 (PKC)

5 PETER BRIGHT,

6 Defendant.

Trial

7 -----x

8 New York, N.Y.  
9 February 11, 2020  
10:15 a.m.

10 Before:

11 HON. P. KEVIN CASTEL,

12 District Judge  
13 -and a Jury-

14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the  
17 Southern District of New York

BY: ALEXANDER LI

18 TIMOTHY TURNER HOWARD

Assistant United States Attorneys

19 DAVID E. PATTON

Federal Defenders of New York, Inc.  
Attorney for Defendant

20 BY: AMY GALLICCHIO

ZAWADI S. BAHARANYI

21 Assistant Federal Defenders

22 Also Present:

Elizabeth Jensen, FBI

23 Ariella Fetman, Government Paralegal

Alondra Rayes, Defense Paralegal

24 Jason Fisher, Technical Support

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1 (In open court; jury not present)

2 (Case called)

3 THE DEPUTY CLERK: For the government?

4 MR. LI: Good morning, your Honor. Alexander Li for  
5 the government. With me is Assistant U.S. Attorney Timothy  
6 Howard; Ariella Fetman, a paralegal in our office; and FBI  
7 Special Agent Elizabeth Jensen.

8 THE COURT: Good morning to you all.

9 For the defendant.

10 MS. GALLICCHIO: Good morning, your Honor. The  
11 Federal Defenders by Amy Gallicchio on behalf of Mr. Bright.  
12 Also present is Zawadi Baharanyi; Mr. Bright; and Alondra  
13 Rayes, who is a paralegal with us.

14 THE COURT: Good morning to you all.

15 Now, I understand that following the final  
16 pretrial conference, there was a meet-and-confer between  
17 counsel, and the parties have agreed on the excerpts from the  
18 chatrooms and text messages that are coming in on the  
19 government's case and that there is one open issue regarding a  
20 photograph.

21 Is that correct?

22 MR. LI: Your Honor, I believe there are two open  
23 issues, one regarding a photograph, and one regarding one clip  
24 from the post-arrest statement, your Honor.

25 THE COURT: Okay. So let's talk about the one clip

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1 from the post-arrest statement. This is the reference to the  
2 17-year-old?

3 MR. LI: Yes, your Honor.

4 THE COURT: Tell me what the excerpt is that relates  
5 to the 17-year-old that you want to get in and the defendant  
6 objects to.

7 MR. LI: Your Honor, the excerpt that we want to get  
8 in -- it's a very, very short clip. In essence, the question  
9 to the defendant is whether he had ever intended to meet with  
10 the 17-year-old girl who had in a separate clip informed the  
11 defendant that she was turning tricks in Manhattan.

12 The defendant stated that he did have texts saying  
13 that he would be happy to meet up with the 17-year-old girl in  
14 the clip at issue. And he further stated that it was possible  
15 that the meeting would have been sexual.

16 THE COURT: All right. Ms. Gallicchio.

17 MS. GALLICCHIO: Yes, your Honor. Those are the very  
18 things that the Court indicated it would preclude, in light of  
19 the age of consent in New York. So that clip addresses that.

20 That clip does not address at all his intention to  
21 have sexual intercourse with a prostitute. It doesn't talk  
22 about a prostitute. He says that it's possible that it would  
23 have turned sexual.

24 So the government is getting in the conversation about  
25 the fact that the young girl was turning tricks in Manhattan.

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1 And the Court is allowing that for other purposes. But I think  
2 this clip is exactly what the Court had indicated it would  
3 exclude.

4 THE COURT: It is exactly what I said I would exclude  
5 because it puts me in the very difficult position of explaining  
6 to the jury that the age of consent in New York is 17. But for  
7 some purposes, it can be unlawful federal law. Particularly we  
8 talked about a photograph of a sub-18-year-old was exchanged.

9 I've allowed the interaction regarding the 17-year-old  
10 to come in with regard to the limited issue of an intent to  
11 refer to law enforcement, and that's it.

12 So this excerpt is out.

13 MS. GALLICCHIO: Your Honor, just so the record is  
14 clear, we did reach agreement, the parties, over the weekend.  
15 I do want to make clear that our objection still stands with  
16 respect to its admissibility.

17 THE COURT: I understand, yes. The positions you took  
18 at final pretrial conference are the positions you adhere to.  
19 Correct?

20 MS. GALLICCHIO: Yes. Thank you.

21 THE COURT: Now, with regard to the photograph, this  
22 is what I understand the bid and the ask to be: The government  
23 seeks to offer the actual photograph which was transmitted --  
24 first of all, let me get this clear.

25 Who was it transmitted by and to?

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1 MR. LI: Your Honor, the defendant transmitted the  
2 photograph to the undercover agent in the course of the  
3 communications at issue.

4 THE COURT: Okay. So it relates directly to the crime  
5 charged.

6 MR. LI: That's correct, your Honor.

7 THE COURT: As I understand it, what the government  
8 has proposed -- and the defendant objects altogether on the  
9 ground that any probative value of the actual photograph is  
10 substantially outweighed by the danger of unfair prejudice.

11 MS. GALLICCHIO: That's right. Yes, your Honor. The  
12 fact that it's sent is what's relevant.

13 THE COURT: That sounds to me to be reasonable,  
14 because I believe the government can get the photograph into  
15 evidence, and I don't believe the probative value is  
16 substantially outweighed by the danger of unfair prejudice.

17 What I understand the government has offered to do is  
18 to have that photograph in the evidentiary record. It would be  
19 offered and received into evidence.

20 But that which you published to the jury, you've  
21 proposed a couple of alternatives: One, either a thumbnail of  
22 the actual picture or a slightly blurred image.

23 Is that correct?

24 MR. LI: Your Honor, we're actually proposing to just  
25 put in the chat messages which include a very small, just a few

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1 millimeters by a few millimeters, thumbnail of the photograph.  
2 The actual sort of enlarged photograph, which is the  
3 attachment, will go to the jury, but it will not be published,  
4 and it will not be part of the public --

5 THE COURT: You're just not going to publish it at  
6 all.

7 MR. LI: That's correct, your Honor.

8 THE COURT: The only thing that would be published is  
9 the jury would see chat and the thumbnail.

10 Is that correct?

11 MR. LI: That's correct, your Honor.

12 THE COURT: Let me hear why that doesn't do the trick.

13 MS. GALLICCHIO: What I understand is that the  
14 government is going to send to the jury the actual not just the  
15 thumbnail, the actual enlarged photograph. So I think it sort  
16 of goes to our original argument with regard to the relevance.

17 If the Court is ruling that it's admissible, then I  
18 think that photograph -- we would ask for some redaction of it.  
19 But the government has proposed over the weekend so that an  
20 actual photograph of his genitals are not sitting in the back  
21 with the jury.

22 THE COURT: Do you have the photograph here?

23 MR. LI: Yes, your Honor.

24 THE COURT: If you'll hand it up for me.

25 Or is it in my binder here?

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1 MR. LI: Yes, your Honor.

2 THE COURT: What exhibit?

3 MR. LI: It's 3J as in Juliette, your Honor. The  
4 thumbnail we're referring to is in 3A as in alpha on page 79.

5 THE COURT: The photo 3J, which has been marked for  
6 identification, is of an erect or semi-erect penis. Because it  
7 relates specifically to the intent of this defendant in this  
8 case as to the charged offense and not to 404(b) evidence or  
9 the like and it's a single photograph, I don't find that the  
10 nature of the photograph is such that its probative value is  
11 substantially outweighed by the danger of unfair prejudice,  
12 jury confusion, or waste of time.

13 So I'm going to allow the photo into evidence, but  
14 it's not going to be published. It will be with the exhibits  
15 available to the jurors at the end of the case.

16 Anything else before our jurors come up?

17 MR. LI: Nothing from the government, your Honor.

18 (Defense counsel conferred)

19 MS. GALLICCHIO: No. Nothing, your Honor.

20 THE COURT: All right. Thank you all very much.

21 (Continued on next page)  
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1 (In open court; jury present)

2 (A jury of twelve and two alternates was impaneled and  
3 sworn)

4 THE COURT: Please be seated.

5 Ladies and gentlemen, those of you who have patiently  
6 sat in this courtroom all day, I am so appreciative of what  
7 you've done. You have served. You are necessary to the proper  
8 functioning of this process. You may now return to the jury  
9 room, with the appreciation of the Court for participating in  
10 this important process.

11 And now, ladies and gentlemen of the jury, what we're  
12 going to do is we're going to take a recess, a ten-minute  
13 recess, let you go into the jury room. And Flo is going to get  
14 you organized. You're going to get nice little passes that  
15 will help you get through the line in the morning.

16 And then you're going to come back to the courtroom,  
17 and we're going to begin with opening statements, first  
18 proceeded by some preliminary instructions that I have to give  
19 you.

20 So as I said before, do not discuss the case among  
21 yourselves or with anyone. And when I say, "Do not discuss the  
22 case," I mean, for example, if there's a witness who's  
23 testifying and you go into the jury room on a recess, it's not,  
24 oh, boy, what did you think of that? Or commenting on it or  
25 commenting on the performance of the lawyers.

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1 Keep that to yourself until the deliberation stage of  
2 the case, and when the case is all over -- it's a short  
3 trial -- you'll be able to talk about it with anybody you  
4 choose. All right, ladies and gentlemen. See you in  
5 ten minutes. And you can leave your coats in the jury room.

6 (In open court; jury not present)

7 THE COURT: We're in recess.

8 (Recess)

9 THE COURT: Please be seated.

10 Ladies and gentlemen, I have some preliminary  
11 instructions for you.

12 The indictment in this case contains one count or  
13 charge against Peter Bright. As I told you this morning, an  
14 indictment is an accusation. It's proof of nothing. It's  
15 merely the means by which a criminal case is commenced.

16 And the defendant has denied the charge made by the  
17 government and has pleaded not guilty to the indictment. The  
18 indictment charges Mr. Bright with one count of attempting to  
19 entice a minor to engage in illegal sexual activity.

20 At the end of the trial, I'll provide you with  
21 detailed instructions on the relevant law. In fact, I'll give  
22 it to you orally, and then I'm going to give you the typed text  
23 of my instructions. You'll also have a verdict sheet that you  
24 can go through, which will help you in your deliberations.

25 The defendant denies the charge and has entered a plea

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1 of not guilty. The law presumes a defendant innocent of the  
2 charge until such time, if ever, as the government proves each  
3 element of the charge by proof beyond a reasonable doubt.

4 As I also told you, my job is to instruct you on the  
5 law that governs or controls the case, and your duty is to  
6 follow those instructions.

7 The burden of proof never shifts to the defendant in a  
8 criminal case, and the law never imposes on the defendant the  
9 obligation of doing anything in a criminal trial.

10 The presumption of innocence remains with the  
11 defendant throughout the trial and unless and until, after  
12 hearing and considering all the evidence and my final  
13 instructions on the law, you as jurors are unanimously  
14 convinced of defendant's guilt beyond a reasonable doubt.  
15 Until it is time to deliberate at the conclusion of the case,  
16 it's important that you keep an open mind.

17 You must pay close attention to all the evidence  
18 presented. Evidence consists of only the testimony of  
19 witnesses, documents, and other things admitted as evidence and  
20 stipulations agreed to by the parties.

21 Certain things are not evidence and must not be  
22 considered by you. I'll list them for you now: Statements and  
23 arguments by lawyers are not evidence. Nor are my own  
24 statements to you.

25 In a few moments, the lawyers will stand at that

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1 podium, and they will give you a preview of what they believe  
2 the evidence in this case will show. Their preview or opening  
3 statement is not itself evidence. Nor is the closing statement  
4 by the attorneys evidence.

5 In fact, questions asked by lawyers are not evidence.  
6 Somebody might ask the question, isn't it a fact, sir, that you  
7 were at Yankee Stadium on July 3, 2016?

8 That question means nothing about Yankee Stadium and  
9 July 3, 2016. It's the answer to the question, together with  
10 the question, that makes it evidence.

11 Something else that is not evidence are objections to  
12 questions. Lawyers have an obligation to their client to make  
13 an objection when they believe evidence being offered is  
14 improper under the rules of evidence.

15 You should not be influenced by the objection or the  
16 Court's ruling on it. If the objection is sustained, ignore  
17 the question and any answer that may have been given. If the  
18 objection is overruled, treat the answer like any other answer.

19 If you're instructed that some item of evidence is  
20 admitted for a limited purpose, you must follow that  
21 instruction and consider it only for that limited purpose.

22 Something else that is not evidence is any evidence or  
23 testimony that is stricken after it's given. If a witness  
24 testifies to something and then later I say, ladies and  
25 gentlemen, I'm striking that testimony, please disregard it,

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1 then it's no longer evidence, and you may not consider it.

2 Something else that's not evidence is anything you may  
3 have seen or heard outside the courtroom, and that must be  
4 decided. You're to decide the case solely on the evidence or  
5 lack of evidence here in the courtroom.

6 In deciding the facts of the case, you have to decide  
7 the credibility of the witnesses, how truthful and believable  
8 they are.

9 Now, how do you decide what to believe and whatnot to  
10 believe. You're going to listen to the witnesses, watch them,  
11 observe them, and then decide, as you would decide questions in  
12 your ordinary life, did they know what they were talking about.  
13 Were they candid, honest, open, and truthful. Did they have a  
14 reason to falsify, exaggerate, or distort their testimony.

15 Sometimes it's not what a witness says but how he or  
16 she says it that may give you a clue as to whether or not to  
17 accept that witness' version of an event or incident as  
18 credible or believable.

19 In short, the way a witness testifies may play an  
20 important part in your reaching a judgment as to whether you  
21 can accept the witness' testimony as reliable.

22 You will use your common sense and good judgment to  
23 evaluate their testimony based on all of the circumstances. I  
24 cannot emphasize too strongly that you must keep an open mind  
25 until the trial is over.

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1 A case can be presented only step-by-step, witness by  
2 witness. And it would be unfair to one side or the other if  
3 you made up your mind before you heard all the evidence.

4 We know from experience that frequently we will hear a  
5 person give his version of events which sounds most impressive  
6 and even compelling. And yet, when we hear another person's  
7 version of the same events or even the same person questioned  
8 about what he saw, what seemed so very compelling and  
9 impressive may be completely weakened or destroyed.

10 In order to ensure that you decide this case only on  
11 the evidence and that you are not influenced in any way by  
12 anything that might occur outside the courtroom in your  
13 presence, I must give you a specific set of instructions.

14 Do not discuss the case among yourselves or with  
15 anyone else. You heard what I said about having a little  
16 mystery in your life. This is all between us. And when the  
17 trial is over, then you can tell your loved ones, your friends  
18 what went on in the courtroom.

19 You'll have a duty to discuss the case when you're in  
20 deliberations. As I mentioned to you, not discussing the case  
21 means even when you go in the jury room, not commenting, not  
22 rolling your eyes, not expressing anything about what you heard  
23 in the courtroom. Talk about the Mets or the Yankees or  
24 Netflix or the weather.

25 Next, you're not to read anything in the newspapers or

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1 elsewhere about the case. You're not to listen or view any  
2 reporting about the case, although I don't expect there will be  
3 any.

4 But you're also not to conduct any research about the  
5 case. You're not to Google or otherwise search any names,  
6 events, terminology, laws, legal concepts, websites that may be  
7 referred to in the trial, or any matter touching in any way  
8 upon the trial.

9 I want you to think, and I want you to imagine again  
10 that it was a family member of yours that was involved in this  
11 trial as either the prosecutor, the defense counsel, the  
12 defendant, the victim, whoever it might be.

13 You would not want jurors who were doing their own  
14 research because you look at something, and there may be a  
15 simple explanation as to why it is, not what it seems to be.  
16 And you're depriving one side or the other of the opportunity  
17 to respond in court. So don't do it. It's a violation of your  
18 oath as jurors.

19 Do not send or receive any electronic communications  
20 about the case. This includes texting, emailing, blogging,  
21 Twittering, Instagramming, Facebooking, or using any other  
22 electronic communications to discuss or even mention the case.

23 You may not even post that you're a juror in this  
24 case. You may not communicate with fellow jurors about the  
25 case, with witnesses or parties, with no one. You'll have a

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1 chance when the case is over.

2 Now, if it becomes necessary to send the Court a note  
3 about something you saw or heard, do not share the content of  
4 the note. If you come in in the morning and you see a juror  
5 writing a note out to the judge, they're not being rude by not  
6 sharing the content of the note with you.

7 They're following my instructions because once in a  
8 while, it may be something that might require a juror to be  
9 excused. And we would not want -- I would not want -- all of  
10 you to be affected by whatever that might be.

11 You're not allowed to let anybody speak to you about  
12 the case. If you're approached by anyone to speak about it,  
13 politely tell them the judge has directed you not to do so. If  
14 any person seeks to contact you about the case, you're required  
15 to report the incident to me promptly. I'm sure that won't  
16 happen.

17 If anyone you know comes into the courtroom -- and  
18 that could happen because this is a public courtroom -- it's  
19 important that you do not hear from them anything that may have  
20 happened while the jury was not present. If you see a friend  
21 or relative come into court, please send me a note through the  
22 clerk at your first opportunity.

23 Something else. The attorneys, the defendant, and the  
24 witnesses are instructed that they may not talk to the jury  
25 outside the courtroom. They may not even offer a friendly

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1 greeting.

2 So if you happen to see any of them outside of the  
3 courtroom, for example, in an elevator or coming in or out of  
4 the building, they will not and should not speak to you.

5 Please do not take offense at this. They're going to  
6 act like they're a perfect stranger, and you should do the same  
7 thing. And in doing so, you'll be following my instructions.

8 I will allow the lawyers in the case to leave the  
9 courtroom without announcement or interruption at any time, so  
10 long as one lawyer for a party remains. Please take no offense  
11 if this occurs. It's in compliance with my rules and may  
12 actually facilitate the trial.

13 So a few words about procedure. The lawyers will have  
14 the opportunity but are not required to make opening statements  
15 to you. Again, as I said, the defendant has no burden in this  
16 case and is not required to deliver an opening statement.

17 Statements, as I said, are not evidence. And they're  
18 just a preview. After all the evidence has been received, the  
19 lawyers will have an opportunity to sum up.

20 I should tell you that what happens is the government  
21 will call its witnesses, they will present their direct  
22 testimony, there will be an opportunity for cross-examination,  
23 the defendant need not cross-examine, and then there may be  
24 redirect testimony. That's how the case proceeds through the  
25 government's case.

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1 Now, ladies and gentlemen, with all of that in mind, I  
2 will now give each said the opportunity to make an opening  
3 statement.

4 Mr. Li, you're going to give the opening statement on  
5 behalf of the government?

6 MR. LI: Yes, your Honor.

7 THE COURT: All right. Whenever you're ready.

8 MR. LI: We're here today because Peter Bright, that  
9 man, tried to have sex with a seven-year-old girl and  
10 nine-year-old boy. In April 2019, the defendant reached out  
11 online to a person he believed to be the mother of two young  
12 children.

13 He told the mother he wanted to teach her children  
14 about sex. Over hundreds of chat messages, the defendant  
15 described, in graphic detail, exactly what he meant, including  
16 inserting a finger in the girl, inserting a small toy in the  
17 girl, and having the children play with his penis. He asked  
18 for pictures of the kids. And he sent the mother pictures of  
19 himself, his STD tests, and his penis.

20 Soon enough, the defendant made plans to meet the  
21 children in person. And so on one Wednesday afternoon, last  
22 May, the defendant met the mother right here in Manhattan.

23 As they began walking to the children's home, sirens  
24 blared, and the defendant was stopped and arrested. As it  
25 turned out, the mother was really an undercover FBI agent, and

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1 the defendant got caught in a sting operation. When the FBI  
2 searched the defendant, they found four condoms, two in his  
3 pockets and two in his wallet.

4 That's why we're here today, because the defendant  
5 showed up at a meeting to have sex with two young children.

6 Ladies and gentlemen, this opening statement is the  
7 government's opportunity to give you a preview of what we  
8 expect to prove at trial. I'd like to spend this time on three  
9 things:

10 First, I want to explain the crime that the defendant,  
11 Peter Bright, is charged with committing. Second, I want to  
12 tell you what I expect the evidence will prove. Third, I'll  
13 walk you through how the government will prove it.

14 Let me start with the crime. The defendant is charged  
15 with attempted enticement of a minor. That is exactly what it  
16 sounds like. The defendant is charged with trying to persuade  
17 a seven-year-old girl and nine-year-old boy to engage in sexual  
18 activity.

19 That is a federal crime, regardless of whether the  
20 defendant succeed, regardless of whether the children were  
21 real, and regardless of whether he was trying to reach the  
22 children through a third party, like an adult or an undercover  
23 agent.

24 I'd now like to spend a few minutes on what I expect  
25 the evidence will show. Before I do that, let me just say in

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1 advance that you may find some of the evidence in this trial  
2 disturbing.

3 We're going to present that evidence to you because it  
4 shows what the defendant said and what he did, and it's that  
5 evidence that proves the defendant is actually guilty.

6 So here is what the evidence will show: The evidence  
7 will show that in April 2019, the defendant contacted an  
8 undercover FBI agent on an online fetish network called KinkD.

9 The undercover agent was posing as the mother of a  
10 seven-year-old girl and nine-year-old boy, and her profile said  
11 she was looking to teach her kids about the birds and the bees.  
12 I'll refer to the undercover agent as "the mother."

13 The defendant and the mother exchanged hundreds of  
14 messages, initially over KinkD and then over another  
15 application calls WhatsApp. In those messages, the defendant  
16 told the mother he wanted to teach her kids how to please  
17 others and themselves.

18 He said he could train the seven-year-old girl by  
19 putting a finger inside her or a tiny toy or the tip of his  
20 penis. He developed a lesson plan to teach the children about  
21 the foreskin of his penis. He sent the mother pictures of  
22 himself, his STD tests, his penis, and he asked for pictures of  
23 the kids.

24 In May 2019, the defendant spoke with the mother by  
25 phone. On the call, the defendant confirmed his first lesson

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1 would be to teach the kids about his foreskin, and he suggested  
2 they schedule weekly lessons.

3 The defendant and the mother made plans for the first  
4 lesson. The mother told the defendant that she would meet him  
5 outside. When they met, the defendant showed the mother his  
6 STD test results on his phone.

7 The defendant confirmed that he was ready to meet the  
8 kids, and he started walking with the mother to the house.  
9 That's when the FBI arrested the defendant and found four  
10 condoms on him.

11 But there's a twist to this story. Two days before  
12 the meeting, the defendant told the mother that he was -- and I  
13 quote -- "struck by the fear yesterday that I've been met by a  
14 cop or something."

15 (Continued on next page)

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Opening Statement - Li

1 MR. LI: And so with that fear on his mind, the  
2 defendant created a cover story. He created a way to protect  
3 himself in case he got caught. What he did was to make a  
4 secret audio recording of the meeting with the mother. Right  
5 after the defendant was arrested the defendant gave the FBI his  
6 cover story. He told the FBI that he was a journalist for a  
7 technology website and that he had recorded the meeting. He  
8 told the FBI that he was gathering evidence on the mother's  
9 child exploitation and was planning to turnover that evidence  
10 to law enforcement. But the defendant's cover story was full  
11 of holes. The FBI asked the defendant what steps he had taken  
12 to report the mother to law enforcement. The defendant  
13 admitted that he hadn't turned over the mother's phone number  
14 or user name. He hadn't turned over the hundreds of messages.  
15 He didn't even tell anyone that he was meeting the mother.  
16 When the FBI asked why he didn't simply report the chats, he  
17 said he hadn't thought of it. The defendant's cover story that  
18 he was a journalist concerned about child exploitation had even  
19 more holes.

20 When the FBI asked if he had any other communications  
21 with minors, he told them that he was chatting with at  
22 14-year-old girl. He said the girl had sent him a picture  
23 wearing panties and a T-shirt and she might also send him a him  
24 a nude picture. At the end of the day the evidence will show  
25 that the defendant's cover story makes no sense and is just not

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Opening Statement - Li

1 consistent with the way he acted.

2 So that's what the evidence will show, that the  
3 defendant met up with someone he found online in order to have  
4 sex with her children and then he created an elaborate cover  
5 story to protect himself in case he got caught.

6 To prove it the government will call four witnesses.

7 First, the government will call the FBI undercover  
8 agent who posed as the mother of the children. She will walk  
9 you through the chats, the phone call and the meeting with the  
10 defendant. You will see the chats and you will hear portions  
11 of the call and the meeting.

12 Second, the government will call another FBI agent who  
13 will testify that he led the team that arrested the defendant  
14 and found the four condoms on him. That agent will also tell  
15 you that he interviewed the defendant after he was arrested.  
16 You will see portions of that interview which was video  
17 recorded including the portions where the defendant spun his  
18 cover story.

19 Third, the government will call an investigative  
20 analyst from the U.S. Attorney's Office. The analyst will  
21 testify that he reviewed the defendant's social media for  
22 publishing posts about sexual activity with children. The  
23 analyst will show you what he found including a Twitter post in  
24 which the defendant declared that age based rape laws, the same  
25 laws he told the FBI he was trying to help enforce are, quote,

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Opening Statement - Li

1 stupid.

2 Finally, the government will call the editor and chief  
3 of a website where the defendant worked as a journalist. The  
4 editor and chief will testify that the defendant was not an  
5 investigative journalist. His job was about technology, such  
6 as Microsoft and consumer technology. The defendant had never  
7 written about child exploitation and would not have been  
8 allowed to write about that topic without seeking approval  
9 which he never did.

10 Ladies and gentlemen, at the end of this case both  
11 sides will have the opportunity to talk to you again. Between  
12 now and then you will see and hear all of the evidence. During  
13 that time I'd ask you to do three things.

14 First, pay careful attention to the evidence.

15 Second, follow the judge's instructions on the law.

16 Third, use your common sense, the same common sense  
17 you use everyday and let that common sense guide your  
18 interpretation of the evidence.

19 If you do those three things, you will have done your  
20 duty as jurors, the defendant will get a fair trial and will  
21 you come to the only verdict consistent with the evidence, that  
22 the defendant, Peter Bright, is guilty as charged.

23 THE COURT: Thank you, Mr. Li.

24 Ms. Gallicchio.

25 MS. GALLICCHIO: Ms. Baharanyi will give the opening.

K2BAABRI2

Opening Statement - Baharanyi

1 THE COURT: Excellent. Ms. Baharanyi, when every  
2 you're ready.

3 MS. BAHARANYI: Thank you.

4 Mr. Bright has no desire have sex with children. He  
5 has never had sex with children. This case is about an  
6 undercover agent and an undercover officer looking for a  
7 predator who cast her net so wildly that she caught a man who  
8 was innocent. That is Mr. Bright.

9 Now, who is Mr. Bright? Mr. Bright is a journalist.  
10 He is a self-proclaimed tech nerd. He is a husband in an open  
11 and loving marriage. And Mr. Bright is a proud member of the  
12 kink community. Now when I say "kink" that's a category for  
13 nontraditional, nonconventional sexual practice between  
14 consenting adults. It can involve role play. It can involve  
15 fantasy, sometimes bondage or submission. Mr. Bright is a big  
16 fan of kink. He likes kink. He likes kinky sex. You will  
17 hear that today. But he likes kinky sex with other kinky  
18 consulting adults. That's what he went looking for when he  
19 went on the kink app.

20 This app you will hear is an app for people, a dating  
21 app for people who are looking for fantasy for role play, for  
22 bondage, dominant submission, kinky sex. Mr. Bright went on  
23 this app and he filled out their public profile. The app asked  
24 you to write a summary about yourself, say who you are, talk  
25 about your kinky interests. Mr. Bright did that. And the app

K2BAABRI2

Opening Statement - Baharanyi

1 asks to you select the kinky roles that you want to play. The  
2 summary, these kinky roles, they're all public on the app so  
3 other people looking at your profile can see exactly what  
4 you're into. Mr. Bright selected the role of dominant. He  
5 selected the role of daddy. He selected the role of age player  
6 p.

7 Now, I'm sure many of you never heard the word  
8 "age-play" or "age-player" before walking through those doors.  
9 So we'll call an expert. His name is Dr. James Cantor. He is  
10 a clinical psychologist. He is sex a researcher and he'll  
11 explain to you that age-play is role-playing. It's acting  
12 between consenting adults when one adult pretends to be a  
13 different age. Sometimes there's an adult pretending to be a  
14 preteen and sometimes he is an adult pretending to be a  
15 toddler. Sometimes an adult pretending to be a baby. These  
16 adults who are pretending, who are acting, they're called  
17 "littles". And the people, the adults who role-play and act  
18 with them are called "mommy" or "daddy".

19 Now, I will tell you now, all of this is sexual. You  
20 will hear a lot about Mr. Bright's sexual activities. You will  
21 hear a lot about age-play. You may be confused by it. You may  
22 be disturbed by it. Frankly, you may not approve of adults  
23 dressing up like children and having sex with other adults.  
24 And that's OK. But whatever you think about age-play, however  
25 you feel about age-play it's between consulting adults. And

K2BAABRI2

Opening Statement - Baharanyi

1 it's legal.

2 And when Mr. Bright messaged Princessmom, messaged the  
3 undercover agent, he was messaging someone that he thought was  
4 also into age-play. Obviously, the issue is this person is  
5 actually an undercover agent. She chose the name "Princessmom"  
6 on KinkD. She created a KinkD profile. She elected the kinky  
7 role of "mommy". She said on the app that she had been kinky  
8 for two years, and that she was looking for someone who teach  
9 her kids about the birds and the bees. Princessmom, the  
10 uncover, used the language of age-play. She used the labels of  
11 age-play on an app for people who are looking to age-play. She  
12 didn't go to a teen chat room. She didn't go on social media,  
13 Facebook or Instagram, the sort of places where you might  
14 expect a child molester to be lurking. Princessmom, or this  
15 undercover, went on KinkD. She went fishing for a predator on  
16 an app for adults who are looking for role-play for adults who  
17 are looking for fantasy, who are adults who are looking for  
18 other adults.

19 Now you'll hear that Mr. Bright and Princessmom  
20 messaged for days. They used the language of age-play in their  
21 messages. And for Mr. Bright that was completely consistent  
22 with other age-play conversations and other age-play in  
23 relationships he'd had.

24 But after a few days Princessmom started dropping red  
25 flags Princessmom. First, there was a phone call. Mr. Bright

K2BAABRI2

Opening Statement - Baharanyi

1 and Princessmom had a phone conversation and you'll hear  
2 Mr. Bright tell you that this conversation felt a little off  
3 for an age-player and then Princessmom sent photos. One of  
4 her, a blond attractive woman in her mid 30s and two of what  
5 seemed like kids. Mr. Bright did not know what to think.  
6 Before these red flags trickled in, it had never crossed his  
7 mind that Princessmom was talking about real children.

8           So now Mr. Bright hoped, prayed even, Princessmom was  
9 really just committed to this fantasy but he feared that  
10 Princessmom was a real mother who was looking for someone to  
11 molest her real children. So decided he was going to figure  
12 out what Princessmom was really up to. He had to keep her  
13 talking. He had to keep the conversation going. He had to  
14 meet her and he had to record everything. This way if  
15 Princessmom showed up, if she is a real predator, then he would  
16 have the best evidence to turn her in. That was Mr. Bright's  
17 plan.

18           So he agreed to meet Princessmom. He went to a park  
19 for the meeting. He waited in the park and he recorded  
20 everything. You'll get to listen to this recording. You'll  
21 hear Mr. Bright wondering out loud if it's possible, if it's  
22 really possible that this woman is going against every maternal  
23 instinct to hurt her children. You'll hear the amazement in  
24 his voice that someone could do something so terrible, so  
25 brazenly and then you'll hear Princessmom show up.

K2BAABRI2

Opening Statement - Baharanyi

1           Now, Mr. Bright thought everything was going according  
2 to plan until FBI surrounded him, placed his hands behind his  
3 back and placed him under arrest. But Mr. Bright is not a  
4 predator. The FBI got it wrong. And you will know that they  
5 got it wrong because FBI agents will get on the stand. They'll  
6 tell you that people, people who adults -- excuse me -- who  
7 like to have sex with children have child pornography. It's  
8 the first thing they look for. And the FBI has every resource  
9 imaginable to uncover it. But Mr. Bright didn't have any child  
10 pornography in his possession and that's because he had has no  
11 desire to have sex with children.

12           How else will you know that Mr. Bright didn't show up  
13 to have sex with a seven or nine-year-old? Because Mr. Bright  
14 didn't hide anything. You will hear that Mr. Bright used his  
15 real photos, his real name, his real phone number when  
16 communicating with the undercover agent. He told her what he  
17 did for work. He told her where in Brooklyn he lived. He  
18 wasn't hiding anything. Then when the FBI showed up and  
19 arrested him, Mr. Bright gave them permission to search his  
20 phones. Gave them permission to search his computer. Gave  
21 them permission to search his entire Google account. Now what  
22 that means is his web history, his search history, every  
23 e-mail, every chat, Mr. Bright turned it all over because he  
24 had nothing to hide, and that's because he was doing nothing  
25 wrong.

K2BAABRI2

Jensen - Direct

1           Mr. Bright is still not hiding. He will take that  
2 stand. He will swear an oath to tell the truth and then he  
3 will share everything. He'll talk to you about his sex life.  
4 He'll talk to you about his case. He'll tell you his plan and  
5 he'll walk you through it. and then Mr. Bright will tell you  
6 that when he showed up to meet Princessmom he had no desire to  
7 have sex with children.

8           Mr. Bright is here today accused of something he would  
9 never do and that's because the undercover, this undercover  
10 officer made a mistake. Mr. Bright has no desire to have sex  
11 with children. He has never had sex with children. He's never  
12 enticed anyone into sex. He's innocent. And after you've  
13 heard all of the evidence in this case, after you've heard from  
14 Mr. Bright himself, we will ask you to return the only just  
15 verdict, not guilty.

16           THE COURT: Thank you very much, Ms. Baharanyi.

17           The government may call its fist witness.

18           MR. LI: Thank you, your Honor.

19           At this time, the government calls Special Agent  
20 Elizabeth Jensen.

21           ELIZABETH JENSEN,

22           called as a witness by the Government,

23           having been duly sworn, testified as follows:

24           DIRECT EXAMINATION

25           BY MR. LI:

K2BAABRI2

Jensen - Direct

1 Q. Good morning.

2 Are you currently employed?

3 A. I am.

4 Q. Where do you work?

5 A. I work at Federal Bureau of Investigation.

6 Q. You'll understand me if I refer to that agency as the  
7 "FBI"?

8 A. I will.

9 Q. What is your title?

10 A. It's "special agent".

11 Q. How long have you been a special agent with the FBI?

12 A. Five years.

13 Q. Are you assigned to a particular unit within the FBI?

14 A. I am.

15 Q. What is that unit?

16 A. So I work crimes against children. So we do anything  
17 regarding the sexual exploitation of minors which includes  
18 risky possession distribution of child pornography, sexually  
19 enticement, human trafficking, international parental  
20 kidnapping.

21 Q. How long have you been investigating crimes against  
22 children?

23 A. Three years.

24 Q. Have you ever received training in the investigation of  
25 crimes against children?

K2BAABRI2

Jensen - Direct

1 A. I have.

2 Q. What sorts of training have you received?

3 A. We have webinars, training sessions, different academies  
4 online, in-person trainings, conferences.

5 Q. Is that just a portion of the training you received or is  
6 that all of it?

7 A. That's correct.

8 Q. Is it just --

9 A. A portion.

10 Q. Are you familiar with the term "online undercover"?

11 A. I am.

12 Q. What is an online undercover?

13 A. It is an agent acting in an undercover capacity, typically,  
14 online.

15 Q. In your capacity as special agent with the FBI, have you  
16 ever operated an online undercover?

17 A. I have.

18 Q. Have you been trained to operate an online undercover --

19 A. I have.

20 Q. What sorts of training have you received -- excuse me --  
21 specifically in undercover operations?

22 A. Specifically, we went out of state, a two-week course where  
23 we go over different facets of investigation, legal matters,  
24 techniques issues that could arise. We have an online platform  
25 dedicated to undercover online. We had have different

K2BAABRI2

Jensen - Direct

1 webinars. I am surrounded by other agents also doing the same  
2 work and so that gives us an opportunity to put our ideas  
3 things through.

4 Q. When you operate an online undercover account, what sort of  
5 person do you pretend to be?

6 A. Typically, I'm a mom.

7 Q. Do you have any children?

8 A. Typically.

9 Q. In your online undercover capacity?

10 A. Yes, in my undercover capacity I have a child or children.

11 Q. Did there come a time when you operated an online  
12 undercover account on an application called KinkD?

13 A. There has.

14 Q. What is KinkD?

15 A. KinkD is an online social media platform geared towards  
16 users with unconventional sexual desires, tastes, interests,  
17 behaviors.

18 Q. Can you describe some of those unconventional tastes and  
19 behaviors?

20 A. Sure. The catch phrase of 'BDSM' you might have people  
21 interested in golden showers, a terminology called "fisting",  
22 seven -- a switch. I can go -- different fetishes, whether  
23 it's a leg fetish, a foot fetish.

24 Q. Are those all fetishes that people talk about on KinkD?

25 A. They talk about it and they advertise for it.

K2BAABRI2

Jensen - Direct

1 Q. How long have you operated an account on KinkD?

2 A. Almost a year.

3 MR. LI: Ms. Fetman, could we please pull up  
4 Government Exhibit One for identification only.

5 (Pause)

6 Q. Special Agent Jensen, do you recognize this document?

7 A. I do.

8 Q. What is it?

9 A. This is a screen shot of my KinkD profile.

10 Q. Is that your undercover profile?

11 A. That's correct.

12 Q. Who took this screen shot?

13 A. I did.

14 Q. When did you take it?

15 A. May, 2019.

16 Q. Is this a fair and accurate reproduction of the screen shot  
17 that you took?

18 A. Yes.

19 MR. LI: The government offers Government Exhibit One.

20 THE COURT: Any objection?

21 MS. GALLICCHIO: No objection.

22 THE COURT: Received. You may publish.

23 (Government's Exhibit One received in evidence)

24 MR. LI: Would you please publish for jury?

25 (Pause)

K2BAABRI2

Jensen - Direct

1 Q. Special Agent Jensen, when did you create a profile on  
2 KinkD?

3 A. April of 2019.

4 THE COURT: Ladies and gentlemen, can you see the  
5 exhibit? It will show up on the back screen if it's also  
6 getting towards your --

7 MR. LI: Your Honor, it is showing on the back screen.

8 THE COURT: But not in the jury box.

9 THE JUROR: It say "signal out of range".

10 THE COURT: OK. Thank you.

11 (Pause)

12 Q. Special Agent Jensen, did there come a time when you began  
13 communicating on KinkD with someone using profile name  
14 "Randomanon"?

15 A. That's correct.

16 Q. When did those communications begin?

17 A. The Randomanon account contacted my account in April 2019.

18 MR. LI: Going to jump ahead a little bit since we  
19 can't pull up the next couple of exhibits.

20 Your Honor, I'm afraid I think we are going to have to  
21 wait for technology. My next set of topics all relate to the  
22 exhibits. It's very difficult to jump ahead straight to the  
23 end.

24 THE COURT: Well, you may have to do it the old  
25 fashioned way. You may publish your exhibits by distributing

K2BAABRI2

Jensen - Direct

1 among the jurors.

2 MR. LI: Yes, your Honor.

3 May I have just a moment?

4 THE COURT: Yes.

5 (Pause)

6 THE COURT: Ladies and gentlemen, you may stand up and  
7 stretch.

8 (Pause)

9 MR. LI: Your Honor, my approach the witness?

10 THE COURT: Yes, you may.

11 (Pause)

12 MR. LI: May I continue?

13 THE COURT: You may.

14 BY MR. LI:

15 Q. Special Agent Jensen, was this an improved FBI uncover  
16 account?

17 A. Yes.

18 Q. Was this profile information visible to other KinkD users?

19 A. That's correct.

20 Q. Turning your attention to Government Exhibit One. Please  
21 read the text written in the section "myself summary"?

22 A. Looking for a teacher to teach my kids about the birds and  
23 the bees.

24 Q. What did you mean when you wrote that?

25 MS. GALLICCHIO: Objection.

K2BAABRI2

Jensen - Direct

1 THE COURT: What were you endeavoring to convey by  
2 that language?

3 THE WITNESS: I was looking for someone that's  
4 interested in teaching my kids about sex.

5 Q. Are the kids described in the sentence real people?

6 A. No.

7 Q. You testified a moment ago that at some point you began  
8 communicating with an individual using the profile name  
9 "Randomanon". How did those communications begin?

10 A. The Randomanon account communicated with my account asking  
11 about further information about my profile.

12 MR. LI: Ms. Fetman, could we please pull up  
13 Government Exhibit 2A through 2D for identification only. You  
14 can also use hard copies if that's easier for you.

15 (Pause)

16 Q. Special Agent Jensen, do you recognize these exhibits?

17 A. I do.

18 Q. What are they?

19 A. These are screen shots of --

20 THE JUROR: Are we supposed to be able to see this  
21 right now?

22 THE COURT: This is in evidence or no?

23 MR. LI: No, your Honor. This is just for  
24 identification.

25 THE COURT: So this is not yet in evidence. So you

K2BAABRI2

Jensen - Direct

1 should not be able to see it.

2 A. So these are screen shots of the KinkD communication to  
3 myself and the Randonanon account.

4 Q. Who took these screen shots?

5 A. I did.

6 Q. Are these fair and accurate reproductions of screen shots  
7 you took?

8 A. They are.

9 MR. LI: The government offers Government Exhibit 2A  
10 through 2D.

11 MS. GALLICCHIO: No objection.

12 THE COURT: Received.

13 (Government's Exhibit 2A - 2D received in evidence)

14 MR. LI: Please publish Government Exhibit 2A for the  
15 jury.

16 (Pause)

17 Q. Special Agent Jensen, let me direct your attention to the  
18 top part of the screen. Do you see a small photograph and text  
19 "Randonanon"?

20 A. Yes.

21 Q. Is that the account with which you were communicating?

22 A. That's correct.

23 Q. Let me direct your attention now to the first white text  
24 bubble on the left. Who wrote that message?

25 A. That message came from the Randonanon account.

K2BAABRI2

Jensen - Direct

1 Q. In that message does he identify himself?

2 A. He does.

3 Q. What is the name that uses?

4 A. He uses "Peter".

5 Q. Throughout this KinkD exchange, were all the messages on  
6 the white bubbles on the left sent by the Randomanon account?

7 A. That's correct.

8 Q. Now, do you see the messages in the blue bubbles on the  
9 right?

10 A. Yes.

11 Q. Who sent those messages?

12 A. I did.

13 Q. Was that using your undercover account?

14 A. That's correct.

15 Q. How out this KinkD exchange were all of the messages on  
16 blue bubble on the right sent by you?

17 A. Yes.

18 Q. How does this conversation between you and Peter begin?

19 A. The first bubble asks can you elaborate a little further on  
20 your profile.

21 Q. Was this the first message between you and Peter on KinkD?

22 A. That's correct.

23 Q. When did Peter send you that first message?

24 A. April 18th at 11:29 a.m. year 2019.

25 Q. When did you respond his message?

K2BAABRI2

Jensen - Direct

1 A. May 1, 2019 at 7:40 a.m.

2 Q. Would you please read your messages to Peter shown on the  
3 screen shot?

4 A. Hi Peter. Sorry. I was swamped with finals but free to  
5 discuss now. My princess is seven and Prince Charming is nine.

6 Q. What did you mean when you wrote my "princess is seven"?

7 A. I was referring to my purported seven-year-old daughter and  
8 my purported nine --

9 MS. GALLICCHIO: Objection.

10 THE COURT: Basis?

11 MS. GALLICCHIO: They speak for themselves. What she  
12 meant is not relevant.

13 THE COURT: The question is not what you meant. The  
14 question is what did you intend to communicate back? What were  
15 the meaning of the words that you expected the receiver to  
16 understand. That's the question.

17 A. The ages of my children.

18 Q. What were you trying to convey when you said "my Prince  
19 Charming is nine"?

20 A. The age of my son.

21 Q. And what is that age?

22 A. Nine.

23 MR. LI: Ms. Fetman, please turn to Government Exhibit  
24 2B which is in evidence.

25 (Pause)

K2BAABRI2

Jensen - Direct

1 Q. Special Agent Jensen, would you please read Peter's first  
2 two messages on the top left here?

3 A. No worries. I hope everything went OK. OK. And they need  
4 educating.

5 Q. What did you understand Peter to mean when he asked "and  
6 they need educating"?

7 MS. GALLICCHIO: Objection.

8 THE COURT: Overruled.

9 A. I am sure that to mean asking about educating children  
10 about the birds and the bees.

11 Q. Are the kids real?

12 A. No.

13 Q. Did there come a time when you and Peter moved your  
14 conversation off KinkD and onto another platform?

15 A. We did.

16 Q. What platform did you use?

17 A. We ended up moving over to What's App.

18 Q. What is What's App?

19 A. It is an online application where users can send messages,  
20 pictures, video back and forth. It's encrypted.

21 Q. Are messages on What's App transmitted over the internet?

22 A. That's correct.

23 Q. How does a user access What's App?

24 A. Go into the App Store. You download What's App. And then  
25 you can find other users based on the telephone users.

K2BAABRI2

Jensen - Direct

1 Q. And what kind of device does one typically access What's  
2 App using?

3 A. Typically, a cellphone.

4 MR. LI: Ms. Fetman, please turn to Government Exhibit  
5 2D which is in evidence.

6 Q. Special Agent Jensen, could you please read Peter's final  
7 message on the bottom left here?

8 A. OK. My What's App number is (832)907-8710.

9 Q. Did you communicate with Peter using that telephone number  
10 on What's App?

11 A. That's correct.

12 Q. Special Agent Jensen, let me direct your attention now to  
13 what's been marked in your binder as Government Exhibit 3A  
14 through 30.

15 Do you recognize these exhibits?

16 A. I do.

17 Q. What are they?

18 A. This is an extraction of the communications between myself  
19 and the (832)907-0710 telephone number.

20 Q. When you say "communications" what kind of communications  
21 are referring to?

22 A. Text messages.

23 Q. Are they using the What's App application?

24 A. That's correct.

25 Q. Are there any redactions in the chats?

K2BAABRI2

Jensen - Direct

1 A. There are.

2 THE COURT: Ladies and gentlemen, a redaction is the  
3 covering or removal of material which is not relevant to this  
4 case. And it's appropriate that the parties under the court  
5 supervision to make redactions.

6 All right. Go ahead.

7 Q. In addition to the actual text messages communicated  
8 between you and Peter, does Government Exhibit 3A and 30 also  
9 include attachments?

10 A. They do.

11 Q. Are some of these attachments also redacted?

12 A. They are.

13 Q. Other than redactions, are the extracted What's App chats  
14 and attachments in Government Exhibit 3A through 30 a fair and  
15 accurate representation of chats and photos that you exchanged  
16 with Peter?

17 A. That's correct.

18 Q. How do you know that?

19 A. I reviewed them. I wrote them, my initials are on here.

20 MR. LI: The government offers Government Exhibit 3A  
21 through 30.

22 MS. GALLICCHIO: Your Honor, we have no objection with  
23 exception to 3J which we've previously objected to.

24 THE COURT: All right. Subject to that objection  
25 which is overruled, the exhibits are all received.

K2BAABRI2

Jensen - Direct

1 (Government's Exhibit 3J received in evidence)

2 MR. LI: Ms. Fetman, please publish Government Exhibit  
3 3A for the jury.

4 (Pause)

5 Q. Special Agent Jensen, what is this?

6 A. This is the beginning of the What's App communications  
7 between myself and the 832 telephone number.

8 Q. You referred earlier to an "extraction". What is an  
9 extraction?

10 A. So what we have the undercover cellphone. We take a  
11 systems file extraction from the cellphone and this an  
12 extraction from that report.

13 Q. Does the extraction contain the chats that you exchanged  
14 with Peter?

15 A. Yes.

16 Q. Let me direct your attention to the participant section at  
17 top of the page. Do you see a small photograph and then the  
18 text 1-832-907-0710?

19 A. I do.

20 Q. Is the number (832)907-0710 the same phone number that  
21 Randomanon provided you on KinkD?

22 A. That's correct.

23 Q. Do you see a small photograph under the participant's box  
24 next to the number we just described?

25 A. I do.

K2BAABRI2

Jensen - Direct

1 Q. Is that the profile picture corresponding to the 0710  
2 account?

3 A. That's correct.

4 Q. Who sets the profile picture for a What's App account?

5 A. The user of the account.

6 MR. LI: Ms. Fetman, please publish Government Exhibit  
7 3B which is in evidence side-by-side with 3A.

8 (Pause)

9 Q. Special Agent Jensen, what is Government Exhibit 3B?

10 A. It's a bigger photo of the smaller photo in the What's App  
11 chats.

12 MR. LI: We can pull down 3B. Thank you much.

13 With the permission of the Court I'll now read  
14 Government Exhibit 101 which is a stipulation between the  
15 parties.

16 THE COURT: All right. Ladies and gentlemen, a  
17 stipulation --

18 This is a stipulation of fact, Mr. Li?

19 MR. LI: Yes, your Honor.

20 THE COURT: All right. A stipulation of fact is an  
21 agreement by the parties that a certain fact is true and you  
22 must accept that that fact has been established. However, the  
23 weight, if any, to give to that fact is entirely up to you,  
24 ladies and gentlemen, as jurors.

25 You may proceed.

K2BAABRI2

Jensen - Direct

1 MR. LI: It is hereby stipulated and agreed by an  
2 between the United States of America, by Jeffrey S. Berman,  
3 United States Attorney for the Southern District of New York,  
4 Alexander Li and Timothy Howard, Assistant United States  
5 Attorneys, of counsel, and Peter Bright, by and through his  
6 counsel, Amy Gallicchio Esquire and Zawadi Baharanyi, Esquire,  
7 as follows:

8 One, records from the cellular telephone provider  
9 T-Mobile U.S. Incorporated indicates that between at least May  
10 1, 2019 and May 21, 2019, the customer name associated with the  
11 telephone number (832)907-0710, was Peter Bright.

12 It is further stipulated and agreed that this  
13 stipulation, Government Exhibit 101, is admissible as a  
14 Government Exhibit at trial.

15 The government offers Government Exhibit 101.

16 MS. GALLICCHIO: No objection.

17 THE COURT: Received.

18 (Government's Exhibit 101 received in evidence)

19 MR. LI: We can take that down now. Thank you.

20 Q. Special Agent Jensen, in the course of your investigation,  
21 did you come to meet Peter Bright in person?

22 A. I did.

23 Q. Was the person you met also the same person pictured in  
24 Government Exhibit 3B?

25 A. That's correct.

K2BAABRI2

Jensen - Direct

1 Q. Do you see that same person here in the courtroom today?

2 THE COURT: You can stand up if you'd like.

3 A. I do.

4 Q. Could you please identify that person by location and an  
5 article of clothing?

6 A. He is sitting in the second table with the white shirt and  
7 a gray jacket.

8 MS. GALLICCHIO: Identified the defendant, your Honor.

9 THE COURT: Identification noted.

10 Q. Turning your attention now to Government Exhibit 3A,  
11 Special Agent Jensen, do you see the second blue bubble on the  
12 left which is dated May 14, 2019 at 8:12 p.m.?

13 A. I do.

14 Q. What does that message say?

15 A. Hi there. I am from KinkD.

16 Q. Above the text of that message, do you see the small title  
17 1-832-907-0710 and it goes on; do you see that?

18 A. I do.

19 Q. Turning now to the right-hand side of the page, do you see  
20 a text bubble in green?

21 A. I do.

22 Q. What does that message say?

23 A. Hey, there.

24 Q. Who sent that message?

25 A. I did.

K2BAABRI2

Jensen - Direct

1 Q. Throughout the What's App exchange, were all of the text  
2 messages in green bubble sent by you?

3 A. That's correct.

4 Q. Let me turn your attention to the redacted black box above  
5 the text "hey, there". What has been redacted?

6 A. My undercover cellphone and my user name.

7 THE COURT: An undercover cellphone telephone number?

8 THE WITNESS: That's correct.

9 THE COURT: Thank you.

10 MR. LI: Ms. Fetman, if we could -- thank you.

11 Q. Turning your attention to the top part of the page under  
12 the section "participants", do you see two redacted black  
13 boxes?

14 A. I do.

15 Q. What's been redacted there?

16 A. My undercover cellphone telephone number and the name of  
17 the account, undercover account.

18 MR. LI: Let's turn back to Government Exhibit 3A.  
19 Could we blow up the second blue message again.

20 (Pause)

21 Q. Special Agent Jensen, throughout this What's App exchange  
22 were all of blue bubbles on the left contained at line  
23 1-832-907-0710 sent by Peter?

24 A. Yes.

25 MR. LI: Ms. Fetman, let's turn to page two please.

K2BAABRI2

Jensen - Direct

1           So going forward, Special Agent Jensen, I'll read the  
2 text in the blue boxes and if you could please read the text in  
3 the green boxes and we'll start with the last blue bubble on  
4 the left which is dated May 15, 2019 at 10:40 a.m. I'll begin.

5 "Q. So I'd love to hear more about what you're doing?

6 "A. We used to have a very hands-on patient teacher who taught  
7 them how to please and be pleased but he left and now we're  
8 back to square one.

9 MR. LI: Could we actually go back, Ms. Fetman.

10 (Pause)

11 MR. LI: Let's proceed.

12 "Q. Page ten -- on page three?

13 "A. You have any teaching experience?

14 "Q. A little, yes. Teaching girls about the changes their  
15 bodies go through, that kind of thing. Helping them learn how  
16 to use their bodies or those of other people.

17 "A. Him, we may be looking for different things.

18 "Q. I think teaching them how to please and be pleased is very  
19 much the same kind of thing. That's what I mean by "using  
20 their bodies".

21 MS. GALLICCHIO: Your Honor, I have an objection.

22 THE COURT: Basis?

23 MS. GALLICCHIO: With respect to this process. It's  
24 not a question and answer.

25 THE COURT: No. The exhibit is in evidence, correct?

K2BAABRI2

Jensen - Direct

1 MR. LI: Yes, your Honor.

2 THE COURT: All right. A party is free to read from  
3 an exhibit in evidence and of course, you are entitled to  
4 cross-examine.

5 Go ahead.

6 MR. LI: Let's continue reading please.

7 "A. Oh, then, yes, we may be on the same page. I really want  
8 my little princess to learn how to be a good girl and  
9 understand how to feel good.

10 "Q. To teach her how best to pleasure boys and how to get  
11 herself off. That kind of thing sounds very much like what  
12 I've done before and am looking to do.

13 MR. LI: Let's stop there.

14 Ms. Fetman, let's turn to page eight please.

15 Q. Special Agent Jensen, if you could please read the green  
16 boxes starting with the second to last one on the right which  
17 is dated May 28, 2019 at 11:31 a.m. and I'll continue reading  
18 the blue box on the left if you could please begin.

19 "A. When did you last teach a little girl? I don't want just  
20 anyone teaching them.

21 "Q. I have a girl I have been teach teaching off and on for a  
22 couple of months now. But she's in the Bronx which makes the  
23 logistics much harder.

24 "A. As old as my princess?

25 "Q. A bit older. 11.

K2BAABRI2

Jensen - Direct

1 "A. Oh, OK. A little bit. What are you good at teaching? We  
2 have started the basics with Kayla.

3 MR. LI: Let's stop there.

4 Q. Special Agent Jensen, who is Kayla?

5 A. Kayla is my purported seven-year-old daughter.

6 Q. Is she a real person?

7 A. No.

8 Q. And you mentioned a second ago that she was purported to be  
9 seven-years-old. Did you tell Peter her age?

10 A. That's correct.

11 Q. What was the name of your purported son?

12 A. "Braden".

13 Q. What was his purported age?

14 A. Nine.

15 Q. Did you tell Peter his purported age?

16 A. I did.

17 MR. LI: Let's continue reading where we left off and  
18 now we're on page ten.

19 I am going to pick up with Peter's message on May 15,  
20 2019 at 11"37 a.m.

21 "Q. I think masturbation and anal sex are probably my favor  
22 subjects. Helping girls find their special places to touch.  
23 It's very rewarding.

24 Special Agent Jensen, what did you understand Peter to  
25 mean when he said "helping girls find their special places to

K2BAABRI2

Jensen - Direct

1 touch. It's very rewarding"?

2 MS. GALLICCHIO: Objection.

3 THE COURT: That was something you wrote or that was  
4 something that was written to you?

5 THE WITNESS: Correct, the latter.

6 THE COURT: The latter. All right.

7 What did you understand the words to mean when you  
8 received that?

9 THE WITNESS: I understood them to refer to a vagina,  
10 anus, breasts.

11 THE COURT: All right. Next question.

12 MR. LI: Ms. Fetman, please turn to page 11, please.

13 Q. Let's continue reading, Special Agent Jensen, if you could  
14 please begin with the second to last green box on the left  
15 which is dated May 15, 2019 at 11:48 a.m.?

16 "A. You teach boys too about anal? You definitely need a  
17 lesson in preparation LOL.

18 "Q. So learning about lube, getting the anus more relaxed and  
19 open. This is so important?

20 "A. How did the 11-year-old like anal? Were you a good  
21 teacher?

22 "Q. I think boys need to be taught about it because I've heard  
23 so many horror stories from girls about educated boys. We're  
24 still going slow on that front, getting them comfortable with  
25 touching that part, explore it with her fingers.

K2BAABRI2

Jensen - Direct

1 "A. Yeah. They rip the inside and just force it in.

2 "Q. Yeah and it puts girls off it for life. Such a waste.

3 MR. LI: Let's stop there.

4 Ms. Fetman, let's turn to page 14 please.

5 Q. Special Agent Jensen, if you could begin with the last  
6 green box on the right which is dated May 15, 2019 at  
7 11:55 a.m.

8 "A. How do you teach?

9 "Q. In the past it's been one-on-one in a bedroom setting. I  
10 do find the idea of teaching two together is very exciting.

11 "A. Would that be too much for you?

12 "Q. I don't think so.

13 "A. Our last teacher was experienced.

14 MR. LI: Let's stop there.

15 Ms. Fetman, let's turn to page 18 please.

16 Q. Special Agent Jensen, do you see the first blue bubble to  
17 the left which is dated May 15, 2019 at 12:14 p.m.?

18 A. I do.

19 Q. What is the content of that message?

20 A. It is a screen shot of an STD test.

21 MR. LI: Ms. Fetman, let's pull up Government Exhibit  
22 30 please, which is in evidence and let's put it side-by-side.

23 (Pause)

24 Q. Special Agent Jensen, what is Government Exhibit 30?

25 A. It's a screen shot of the STD test that Peter sent.

K2BAABRI2

Jensen - Direct

1 Q. It has personal information on listed which has been  
2 redacted?

3 A. That's correct.

4 Q. Other than the redactions, is Government Exhibit 30 the  
5 same image that Peter sent you in the What's App chat?

6 A. Yes.

7 MR. LI: Ms. Fetman, let's take down Government  
8 Exhibit 30 please and replace it with Government Exhibit 3  
9 which was also in evidence.

10 Q. Special Agent Jensen, what is Government Exhibit 3I?

11 A. It's a second screen shot that Peter sent regarding the HIV  
12 testing.

13 Q. Has the personal information on the image been redacted?

14 A. It has.

15 Q. Other than the redactions, is Government Exhibit 3I another  
16 image that Peter sent you in the What's App chat?

17 A. That's correct.

18 Q. Did Peter ask you -- excuse me -- did you ask Peter to send  
19 these STD tests?

20 A. I did.

21 Q. Why did you ask Peter to send you STD tests?

22 A. Two reasons. One, as undercover mom I wanted a safe and  
23 clean person. And then two, it's another overt act that  
24 someone has to take to show interest in having sex with the  
25 kids.

K2BAABRI2

Jensen - Direct

1 MR. LI: Ms. Fetman, let's take down Government  
2 Exhibit 3I please. Going back to Government Exhibit 3A the  
3 chats let's turn to page 32.

4 Q. Special Agent Jensen, do you see the first blue bubble to  
5 the left which is dated May 16, 2019 at 12:14 p.m.?

6 A. I do.

7 Q. What is this?

8 A. This is a photo Peter sent of himself.

9 MR. LI: Ms. Fetman, let's pull up Government Exhibit  
10 3H please which is in evidence and put it side-by-side.

11 (Pause)

12 Q. Special Agent Jensen, is this the same picture that Peter  
13 sent you in the What's App chat?

14 A. That's correct.

15 MR. LI: We can take down Government Exhibit 3H.

16 Q. Special Agent Jensen, could you please read the last green  
17 bubble on the right which is dated May 16, 2019 at 12:23 p.m.?

18 A. You are not old. How old are you?

19 Q. What does Peter respond?

20 A. Thirty-eight.

21 MR. LI: Ms. Fetman, let's continue to page 46 please.

22 Q. Special Agent Jensen, let's continue reading beginning with  
23 the second green chat bubble to the right which is dated  
24 May 16, 2019 at 3:48 p.m.?

25 "A. Have you thought about what kind of lesson you would like

K2BAABRI2

Jensen - Direct

1 to start with? Anything excite you?

2 "Q. Really depends on their experience but I am thinking maybe  
3 something involving foreskin is the way to start.

4 MR. LI: Let's stop there.

5 Q. Special Agent Jensen, whose foreskin did you understand  
6 Peter to be referring to?

7 A. His own.

8 MR. LI: Continue reading.

9 "Q. I'm not on Peter's message at May 16, 2019 at 3:51 p.m.  
10 Because it's still kind of on your shoulder here.

11 "A. Yeah. I think it's rare. Yeah, I think it is kind of  
12 rare here. Does the other girl you teach like it?

13 "Q. Yes. In fact, every American I have been with except one  
14 enjoyed it. But the one we were back at her place we got naked  
15 and she said no because I wasn't circumcised. Much eye rolling  
16 there.

17 "A. Wow. Really? Why did she say no?

18 "Q. She thought it looked wrong. Had never seen one before.

19 "A. What a bitch, LOL.

20 "Q. Yeah. It was pretty ridiculous?

21 "A. Kayla and Braden will be delighted to be taught about it.  
22 They're inquisitive and good students. LOL.

23 "Q. Cool. Let them handle it. See how it pulls back et  
24 cetera.

25 MR. LI: Let's stop there.

K2BAABRI2

Jensen - Direct

1 Ms. Fetman, let's take down Government's Exhibit 3A  
2 for now.

3 Q. Special Agent Jensen, did there come a time when you and  
4 Peter arranged a telephone call?

5 A. That's correct.

6 Q. When was that call?

7 A. That was on Friday, May 17, 2019.

8 Q. Was the telephone call recorded?

9 A. It was.

10 Q. Who reported it?

11 A. I did.

12 MR. LI: Your Honor, may I approach the witness?

13 THE COURT: You may.

14 (Pause)

15 Q. Special Agent Jensen, I just handed you a disk that's been  
16 marked for identification as Government Exhibit Five. Do you  
17 recognize this disk?

18 A. I do.

19 Q. What is it?

20 A. It's a disk of the excerpts from cellphone undercover call.

21 Q. Is that the recorded call you just described with Peter?

22 A. That's correct.

23 Q. How do you know those are its contents?

24 A. I listened to and my initials are on the disk.

25 Q. Based on your review, are the clips on the disk true and

K2BAABRI2

Jensen - Direct

1 accurate excerpts from your recorded telephone call with Peter?

2 A. They are.

3 MR. LI: The government offers Government Exhibit Five  
4 and the exhibits that are on it which are marked Government  
5 Exhibit 5A through 5D.

6 MS. GALLICCHIO: No objection.

7 THE COURT: All right. Received.

8 (Government's Exhibits 5A - 5D received in evidence)

9 THE COURT: Ladies and gentlemen, unaccustomed as I am  
10 to ending early -- it's two minutes to five -- I'm going to  
11 give us all a holiday by breaking at this juncture. I feel  
12 like I've known you forever and I am sure you feel like you've  
13 been in this courtroom forever but you have really been patient  
14 people. It's been a long day. It's new circumstances for  
15 everybody.

16 Please have a restful evening. Put the case out of  
17 your mind. Remember, do not discuss the case among yourselves  
18 or with anyone. No looking things up online or Googling, not  
19 even the lawyers or the judge or anyone. You'll have plenty of  
20 time to do a after the trial is over.

21 Please be here so that we can get a ten o'clock sharp  
22 start. We can't start without all of you. So that means  
23 getting here early, not getting at the front door at ten  
24 o'clock. Getting at the front door at ten to, quarter to and  
25 being ready for action at ten o'clock. And I will do my best

K2BAABRI2

Jensen - Direct

1 on my end to move this case to an appropriate and fair  
2 conclusion in a timely fashion.

3 See you tomorrow morning.

4 (Jury not present)

5 THE COURT: All right. Please be seated.

6 What I'm going to do is, I know you all have work to  
7 do but I am going to ask that by Wednesday night -- well,  
8 actually, let me make it Thursday morning open of court, you  
9 will have filed online any comments that you have on the jury  
10 instructions which have been marked as Court Exhibit Two and  
11 were distributed earlier today. All right?

12 See you tomorrow morning. Thank you very much.

13 (Adjourned to February 12, 2020 at ten a.m.)  
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